September 19, 2012

Comments Received During Dual Notice Period from July 9 to August 10, 2012, and Responses to Comments on Proposed Rules Permitting Emissions of Greenhouse Gas

NOTE: Comments lacking a complete mailing address or that were received after the close of the comment period are excluded.

List of Comments Received

(Note: the received dates are out of order because some commentors provided complete addresses upon request)

1. Stephanie L. Kuphal, Wenck Associates. Received July 12, 2012
2. Bill Konrardy, Minneapolis, MN. Received August 7, 2012
3. Annette Rondano, Minneapolis, MN. Received August 7, 2012
4. Paul Densmore, Minneapolis, MN. Received August 7, 2012
5. Rebecca Cramer, Minneapolis, MN. Received August 7, 2012
6. Doug Zbikowski, Spring Lake Park, MN. Received August 7, 2012
7. Kurt Kimber, Minneapolis, MN. Received August 8, 2012
8. Robert Young Walser, Minneapolis, MN. Received August 8, 2012
9. Chuck Prentice, Edina, MN. Received August 8, 2012
10. John Schmid, Minneapolis, MN. Received August 8, 2012
11. Leslie MacKenzie, Minneapolis, MN. Received August 8, 2012
12. Erin Pratt, Excelsior, MN. Received August 8, 2012
13. Grace Harkness, Minneapolis, MN. Received August 8, 2012
14. Lois Norrgard, Bloomington, MN. Received August 8, 2012
15. Ken Pentel, Ecology Democracy Network, Minneapolis, MN. Received August 8, 2012
16. David Luce, Ecology Democracy Party. Received August 8, 2012
17. Laura Hedlund, Eagan, MN. Received August 8, 2012
18. Maureen Hackett, MD, Hopkins, MN. Received August 8, 2012
19. Alan Muller, Energy & Environmental Consulting, Red Wing, MN. Received August 9, 2012
20. Tom Marks, North Mankato, MN. Received August 10, 2012
21. Amelia Kroeger, Maple Plain, MN. Received August 10, 2012
22. Kristen Eide-Tollefson, Frontenac, MN. Received August 10, 2012
23. Jon Freise, Minneapolis, MN. Received August 10, 2012
24. Terry A. Ford, Minneapolis, MN. Received August 10, 2012
25. K.Brian Nowak. Maple Plain, MN. Received August 10, 2012
26-27. Carol A. Overland, Legalectric - Overland Law Office, Red Wing, MN. Received August 10, 2012 (2 comments)
28. Scott Travis, Minneapolis, MN. Received August 10, 2012
29. Elanne Palcich, Chisholm, MN. Received August 10, 2012
30. Sarah B. McCarthy, Minneapolis, MN. Received August 10, 2012
31. Sheldon Gitis, St. Paul, MN. Received August 10, 2012
32. Lori Andresen, Duluth, MN. Received August 10, 2012
33. Carla Arneson, Ely, MN. Received August 10, 2012
34. Kate Faye, Falcon Heights, MN. Received August 10, 2012

35. Rick Rosvold Xcel Energy, Minneapolis, MN Received August 10, 2012
36. Mike Robertson, Minnesota Chamber of Commerce, St. Paul, MN. Received August 10, 2012
37. Tara Chadwick, St. Paul. MN. Received August 10, 2012
38. Suzanne Rohlfing, Rochester, MN. Received August 10, 2012
39. Angela Wyatt, Minneapolis, MN. Received August 8, 2012
40. Jim Lovestar, Minneapolis, MN. Received August 8, 2012
41. Sen. John Marty, Roseville, MN. Received August 10, 2012
42. Kay Nygaard Graham, Minneapolis, MN. Received August 10, 2012
43. Christie Manning, St. Paul, MN. Received August 9, 2012
44. Brooke Dierkhising, Minneapolis, MN. Received August 10, 2012

List of Acronyms and Abbreviations

CAA: federal Clean Air Act
CFR: Code of Federal Regulations
CO_2: carbon dioxide
CO_2e: carbon dioxide equivalent, a way to normalize the atmospheric warming potential of various compounds relative to CO_2
EPA: US Environmental Protection Agency
FR: Federal Register
GHG or GHGs: greenhouse gases
MACT: Maximum Achievable Control Technology
MN or Minn.: Minnesota
MPCA: Minnesota Pollution Control Agency
NESHAP: National Emission Standard for Hazardous Air Pollutants
NSPS: New Source Performance Standard
Subp: Subpart
TPY: Tons per Year

Comments Received and Responses to Comments

1. Stephanie L. Kuphal, Wenck Associates. Received July 12, 2012

Comment 1-1. For a scenario such as a small boiler, currently listed as an insignificant activity for a permitted facility, and Boiler MACT adding applicable requirements, two sets of application deadlines and two types of amendments could apply. Minn. R. part 7007.0400, subp. 3 has been treated as applicable for the situation in the past and an administrative amendment would have been required; but now part 7007.1450, subp. 2 rules could be viewed as applicable with a minor amendment required.

Response 1-1. The commentor is correct that different application requirements can apply in different situations. However, only one application would be made for any given modification. If more than one type of permit amendment may be appropriate for a certain modification, the owners and operators should apply for the higher level of amendment. In a situation like this, a facility could also be subject to different deadlines to submit the appropriate permit application. The more stringent deadline applies.

Part 7007.0400 specifies in the rules as proposed that it applies in a situation when a source first requires a total facility permit. That may occur because of a regulatory change or a change in the method of operation authorized by a prior construction permit. The example cited by the commentor of a new federal NESHAP (Boiler MACT) could be an instance when a permit would be modified to incorporate the NESHAP for an already-permitted unit.

The minor amendment process was revised in the rules as proposed to address the possibility under the temporary GHG rule that insignificant activities would no longer qualify as such. In that case, the former insignificant activities need to be added to the facility's permit. The comment appears to be asking if this type of change should be made using the administrative amendment process. Eligibility for administrative amendments is defined by 40 CFR 70.7(d) and included in part 7007.1400. The Minnesota Pollution Control Agency (MPCA) does not believe that a permit revision to incorporate former insignificant activities would meet the criteria for an administrative amendment. By adding these sources to the permit, there is a change – albeit perhaps small – to the quantity of emissions counted in the permit. The permittee should review the permit amendment rules to determine which type of amendment applies to the activity that no longer qualifies as insignificant or as an administrative amendment. This revision is not expected to be affected by changes in federal performance standards.

Comment 1-2. Under part 7007.1130, subp. 3, item M, registration permit applications pre-date GHG regulation for most facilities. It is not obvious how to interpret "… determined eligibility in the permit application…." It may be enough for the MPCA to provide some guidance clarifying whether a new permit application is required to establish the GHG monitoring approach.

Response 1-2. The language in the proposed rules is the same as in existing rules for calculating volatile organic compound emissions. An owner or operator may choose whether to use purchasing records or usage records to calculate emissions from compounds that contain GHGs such as cleaning materials or plating solutions. However, once selected, the same basis (purchase or use) should be used each month.

If a facility already has an existing permit and the new rules require the owner or operator to now include GHGs in the monthly calculations, then the owner or operator should select a basis (purchase or use) for the calculation, document the decision, and use the same basis each month.

Comment 1-3. Would use of a hydrofluorocarbon refrigerant that is regulated as a GHG but has no emissions (e.g., comfort air conditioning) be considered "use" under part 7007.1125, subp. 1, item H?

Response 1-3. The MPCA's intention was to apply the list of compounds in part 7007.1125, subp. 1, item H to production-related processes such as manufacturing or cleaning. Additionally, incidental leakage from comfort air conditioning may qualify as an insignificant activity under part 7007.1300.

The following people submitted electronic mail that contained substantially similar comments. Identical or substantially similar points have been grouped together under comment letter number 2. Unique comments are listed individually by letter number.

2. Bill Konrardy, Minneapolis, MN. Received August 7, 2012
3. Annette Rondano, Minneapolis, MN. Received August 7, 2012
4. Paul Densmore, Minneapolis, MN. Received August 7, 2012
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40. Jim Lovestar, Minneapolis, MN. Received August 8, 2012

Comment 2-1 et al. I am writing to request a public hearing and hereby state that I oppose the entire set of rules.

Response 2-1. The Administrative Procedures Acts requires at least 25 requests be made for a hearing to be mandatory. The MPCA received a sufficient number of hearing requests to require the hearing. As stated in the July 9, 2012, dual notice for these rules, the Agency scheduled a hearing for August 30, 2012, from 2:00 – 4:30 p.m. The hearing was held at the MPCA Offices, 520 Lafayette Road North, St. Paul, MN 55155. If an interested party was unable to attend the hearing, the Administrative Law Judge, the Honorable Manuel Cervantes, invited submittals of written testimony through 4:30 p.m. on September 19, 2012, and rebuttals to testimony through 4:30 p.m. on September 26, 2012. The Judge plans to issue a report on or about October 26, 2012. The general comment of opposing the entire set of rules does not provide the Agency with enough information to respond to specific issues.

Comment 2-2 et. al. We are at a pivotal crossroad and can no longer accept the status quo; it is time to thoroughly address and resolve climate change through a thorough and innovative GHG ruling to get us back to 350 ppm CO_2 atmospheric state. It is hereby requested that the public hearing provide the framework for the State of Minnesota to draft our own rule making to remove the "tailoring" and include stricter requirements for the reduction of GHG emissions throughout our beautiful State and, through funds generated and/or made available by emission fees from GHG sources, begin funding truly sustainable programs led by grassroots efforts of Transition Town organizations and other community based organizing.

Response 2-2. The scope of this rulemaking was defined in the notice for the rule as: *"Comply with New Federal Air Permit Thresholds for Greenhouse Gases and minor housekeeping amendments to clarify rule*

language and meaning, improve consistency, and to incorporate one federal New Source Performance Standard (NSPS) into state rules."

Note that the primary objective of the rules as proposed, and of the federal rules upon which they were based, was not to curtail GHG emissions; rather, it was to identify major emitters of GHG and to gather information about how much they potentially could emit. The rules as proposed neither raise nor lower standards for GHG emissions. It establishes the threshold above which sources must obtain an air emission permit but does not establish any limitations on the emissions of GHGs.

The Agency chose to limit the scope of the GHG rules to making its GHG air permitting rules consistent with the parent federal rules. While the Agency could have chosen to make some aspects of its proposed rules more stringent than the federal rules, the Agency chose to be consistent with the EPA believing that the federal rules were promulgated with significant resources, rigor, balance of interests, and broad input that the Agency does not have the resources to fully match. It was reasonable for the Agency to limit the scope of these rules in order to make the rulemaking practicable. The Agency's experience leads it to carefully select an achievable scope. In this instance, the Agency also faced tight timelines to implement workable rules. The timelines are challenging and would not likely be met without having chosen a limited scope.

The proposed rules would implement the federal operating permit requirements for GHGs in Minnesota. Minnesota's federal operating permit program is approved by the federal Environmental Protection Agency (EPA). Permit programs help states identify sources of air pollution and obtain compliance with air quality regulations. A permit can include emissions reductions, depending on what specific regulations apply to the facility.

The MPCA understands the desire expressed by many commenters for a need to reduce GHG emissions as a step toward addressing climate change, and will consider those comments as opportunities arise for related future rulemaking. However, reducing GHG emissions and addressing climate change are well outside the scope of the rules as proposed. It was never the stated intent of these rules to curtail GHG emissions in any way. Air permits generally gather all regulatory requirements applicable to a given source into one document. On a case-by-case basis, a permit may include requirements to reduce specific emissions; however, there are no applicable state or federal requirements to reduce GHG emissions at this time. While Minn. S., section 216H.02, subd. 1 establishes statewide emission reduction goals for GHGs, these goals do not create specific emission reduction requirements applicable to individual facilities that emit GHGs.

It is true that the federal Clean Air Act (CAA) provisions allow states to enact stricter programs than those of the EPA. The commentors suggest that the MPCA adopt a lower permit threshold. The result would be that thousands of sources would have to obtain air emission permits solely because of their GHG emissions but they would not have to reduce their GHG emissions.

The MPCA believes it is reasonable to conform to the federal major source permit threshold for GHGs of a potential to emit 100,000 tpy CO_2e or more. The EPA's preamble to the final Tailoring rule (the basis for the rules as proposed) provided an analysis of the additional level of coverage of greenhouse gas emissions and estimated program costs at lower permit thresholds (75 FR 31540, Table V-1). Elements of Table V-1 are summarized in Table A, below. The MPCA estimates, based on the EPA's data, that Minnesota would have about 120,000 facilities newly subject to major source permitting if the major source threshold reverted to the level that existed prior to the adoption in 2011 of the temporary rule.

This would require many small sources such as certain residences, schools and restaurants to obtain permits as a major emission source and would likely result in substantial costs, as estimated in Table A, and administrative burdens to both newly-regulated small sources and to the MPCA. Meanwhile as seen in Table A, for an increase of over 214 times the cost ($2.1 to $450 million), the percentage of GHG emissions included under permits would increase by only a small amount (67 percent to 78 percent).

The Agency estimates Minnesota's costs to administer a GHG permit program as approximately two percent of the national figures in 75 FR 31540 (Table V-1). Two percent is a reasonable estimate as Minnesota produces slightly less than two percent of total national manufacturing output, has somewhat less than two percent of the total United States population, and has somewhat more than two percent of total national personal income. For comparison to the estimated program costs in Table A, the MPCA's total air program budget is $28.6 million for Fiscal Year 2012-2013 and the MPCA's total budget is $362.8 million (MPCA website, financial transparency pages).

Table A. Summary of Permit Coverage

Major source threshold [tons/year CO_2e]	**Percent of GHG emissions covered**	**Estimated Minnesota costs to run GHG permit program**
100,000 (MPCA proposed rules based on EPA rules)	67%	$2.1 million
50,000	70%	$2.94 million
25,000	75%	$7.1 million
100/250 (same as previously-regulated pollutants)	78%	$450 million

The commentors suggest that the MPCA should collect emission fees from GHG sources to begin funding truly sustainable programs led by grassroots efforts of Transition Town organizations and other community based organizing. States are required to collect fees sufficient to cover all reasonable (direct and indirect) costs to develop and administer operating permit programs. The air permit program assesses fees on actual emission of certain pollutants. The list of air pollutants that are subject to a fee assessment, otherwise known as chargeable pollutants, is provided in part 7002.0015. The list of chargeable pollutants does not include any of the GHGs covered by this rulemaking. To change this proposed rule to institute fees for GHGs emissions would constitute a substantial difference because there has been no prior notice to the public that the Agency was proposing a change to the definition of chargeable pollutant in part 7002.0015, subp. 2a. These fees are used to administer the MPCA's permit program. The EPA did not set a fee for GHGs nor did it specifically require states to assess fees for GHGs under its revised rules for the operating permit program. As permitting for GHGs proceeds, states will review their resource needs and determine if their existing fees are adequate. If the MPCA finds its current fee structure is not adequate to cover the additional work required for GHG permitting, the MPCA may choose to add a fee for GHGs. In that case a separate rulemaking would be required. Changes to the current fee structure are outside the scope of the rules as proposed.

Comment 2-3 et. al. Furthermore, it is imperative that this rule making be written to fully address and resolve the true cost/impact of GHG emissions to thoroughly educate the public and raise environmental consciousness.

Response 2-3. See Response 2-2.

The MPCA engages the public on sustainability issues through outreach and education through its Resource Management and Assistance Division, a Living Green web page, the EcoExperience at the Minnesota State Fair and the Next Step program, among other efforts.

As noted above, the Agency chose to limit the scope of the GHG rules to making its GHG air permitting rules consistent with the federal rules. This rule was not intended to address the costs and impacts of GHG emissions. To do so would exceed the scope of the rules as noticed.

3. Annette Rondano, Minneapolis, MN, Received August 7, 2012

Comment 3-1. Don Shelby and ALL other prominent climate and weather scientists have sounded the alarm about the most recent unprecedented climate events and why we can expect them to INCREASE. This is all about Global Warming, something that we now refer to softly as "Climate Change". In fact, if we do not look to drastic changes in our policies and actions, we will certainly be beyond the point of turning back within this very year.

Response 3-1. The MPCA acknowledges the science of climate change and discusses the science and MPCA activities on its Climate Change web page and through a climate change exhibit at the EcoExperience of the Minnesota State Fair. The MPCA also publishes a report on statewide progress toward greenhouse gas reduction goals enumerated in the Next Generation Energy Act, including a summary of emissions by economic sector and by major activities, with long term trends and social and economic indicators. Because fuel combustion for energy production is a key source of GHG emissions, the Minnesota Department of Commerce has been the lead state agency in coordinating Minnesota's response to climate change, working closely with the MPCA and other sister agencies. The Department of Commerce provides information to citizens on topics like clean energy, conservation, and efficiency. See also Response 2-2.

Comment 3-2. [Provide] city by city guidelines for far-reaching initiatives on the local level.

Response 3-2. As noted in Response 2, the MPCA provides assistance programs. Programs for local units of government include GreenStep Cities and placement of Minnesota GreenCorps volunteers. In addition, units of government in Minnesota are required to analyze public buildings' energy performance through the B3 Benchmarking database.

4. Paul Densmore, Minneapolis, MN, received August 7, 2012

Comment 4-1. The record heat, drought, and extreme weather is just the beginning as climate scientists like [James] Hansen have predicted for 30 years now.

Response 4-1. See Response 3-1.

10. John Schmid, Minneapolis, MN. Received August 8, 2012

Comment 10-1. I oppose the lowering of standards on greenhouse gas emissions to accommodate industry concerns or for other reasons.

Response 10-1. See Response 2-2.

Comment 10-2. Include stricter requirements for the reduction of GHG emissions throughout our beautiful State. … I would like to see Minnesota become an innovative leader in trying to save our planet from the worst ravages of climate change. We have already this summer seen in Minnesota and around the country the disastrous effects climate change can have.

Response 10-2. See Responses 2-2 and 3-1.

11. Leslie MacKenzie, Minneapolis, MN. Received August 8, 2012

Comment 11-1. We are at a critical juncture in the history of civilization, where immediate action to reduce greenhouses gases is imperative. …. Our economy depends upon it; our lives depend upon it.

Response 11-1. See Responses 2-2 and 3-1.

12. Erin Pratt, Excelsior, MN. Received August 8, 2012

Comment 12-1. We are already facing more drastic consequences of climate change (drought, flooding, fires, increased severe weather) then previously predicted by climate scientists. It is imperative that we take swift and responsible action to curb climate change immediately. One of the most effective ways to do this is through a thorough and innovative GHG ruling.

Response 12-1. See Responses 2-2, 2-3 and 3-1.

14. Lois Norrgard, Bloomington, MN. Received August 8, 2012

Comment 14-1. With the present drought, floods, fires out west, and ever increasing global climate change we are now entering a time where we can no longer accept the status quo; it is time to thoroughly address and resolve climate change through a thorough and innovative GHG ruling

Response 14-1. See Responses 2-2, 2-3 and 3-1.

Comment 14-2. Minnesota can lead the way through innovation and clean energy programs for the rest of the country.

Response 14-2. See Responses 2-2 and 3-1.

Comment 14-3. Furthermore, it is imperative that this rule making be written to fully address and resolve the true cost/impact of GHG emissions to thoroughly educate the public and raise environmental consciousness. The costs we face to our food crops (our corn, soybeans as well as apple crops have all been in the news recently), health, wildlife and environment.

Response 14-3. See Responses 2-2, 2-3 and 3-1.

15. Ken Pentel, Ecology Democracy Network, Minneapolis, MN. Received August 8, 2012

Comment 15-1. The reason for this is we have seen many rapid changes in weather patterns that most climate scientists agree are human induced, such as: The European heat wave of 2003, Russian heat wave of 2010 and droughts in Texas and Oklahoma.

Response 15-1. See Response 2-2 and 3-1.

16. David Luce, Ecology Democracy Party. Received August 8, 2012

Comment 16-1. People, I add my voice to the request for a hearing. We are already way late on this and the longer we delay the worse it will surely get. Forget the difficulties, think of the kids.

Response 16-1. See Responses 2-1, 2-2 and 3-1.

17. Laura Hedlund, Eagan, MN. Received August 8, 2012

Comment 17-1. We need the courage to see that half of the country is now in drought. We need empathy for the people of Duluth. Now is time to thoroughly address and resolve climate change through a thorough and innovative GHG ruling.

Response 17-1. See Response 2-2.

The following people submitted electronic mail that contained substantially similar comments. Identical or substantially similar points have been grouped together under comment letter number 19. Unique comments are listed individually by letter number.

19. Alan Muller, Energy & Environmental Consulting, Red Wing, MN. Received August 9, 2012
28. Scott Travis, Minneapolis, MN. Received August 10, 2012
30. Sarah B. McCarthy, Minneapolis, MN. Received August 10, 2012
33. Carla Arneson, Ely, MN. Received August 10, 2012
44. Brooke Dierkhising, Minneapolis, MN. Received August 10, 2012

Comment 19-1. The essence of the issue is that the proposed rules, while they may be consistent with the Federal rule, have such a high threshold--essentially, 100 thousand tons/year CO_2-e--that they will be ineffective in curtailing GHG emissions in Minnesota.

Response 19-1. See Responses 2-2 and 2-3. Lowering the threshold would result in the MPCA issuing many more permits to entities that emit GHGs at much lower thresholds (even some homes, schools, and small businesses as major emitters). However, that change would not result in curtailing GHG emissions which is outside the scope of the rules as proposed.

Comment 19-2. Elsewhere--the SONAR for the 2011 EAW GHG rollover--is stated: *"it is apparent that in any given year there are not likely to be more than a handful of new or expanded sources that would exceed the proposed 100,000 ton threshold."*

Response 19-2. The Environmental Quality Board (EQB) is responsible for the rules governing Environmental Assessment Worksheets. The MPCA believes the statement in EQB's SONAR was accurate. Under the temporary greenhouse permit rules, some facilities had to obtain a different type of

permit or obtain a permit for the first time. Those applications were due by June 30, 2012. By the due date, six facilities applied to change their permit to a major source permit because of GHGs. To place that in context, the MPCA has approximately 2,500 active air permits and about 300 of those are major source permits. No applications were submitted for individual state permits because of GHGs by the due date. MPCA staff estimate that one or two small facilities required a permit for the first time because of GHGs. As those facilities had low actual emissions of GHGs, they qualified for a streamlined permit called a registration permit.

Comment 19-3. The MPCA has the authority to adopt rules setting a higher standard than EPA has required, and this is clearly a matter in which that authority should be exercised. A much lower threshold for CO_2-e emissions should be incorporated.

Response 19-3. See Response 2-2.

Comment 19-4. Further, the MPCA has stated: *"The MPCA is aware of EPA's plan to propose and finalize rules to defer for three years the permitting of greenhouse gas emissions from biomass-fired or biogenic processes. We do not know how this decision will affect Minnesota's permitting program until EPA provides more details on how they will accomplish the deferral. We will continue to work to ensure that Minnesota's permitting rules conform with the EPA's permitting rules and do not unduly affect biomass-fired or other biogenic processes."* It is irresponsible to promote "biomass-fired or biogenic processes" while seeking to avoid considering the--known to be very high--climate-forcing emissions of these processes. Emissions of this sort, and facilities responsible for such emissions, should be fully incorporated, not exempted, from the Minnesota rule.

Response 19-4. The EPA is evaluating how to consider CO_2 emissions from biogenic sources because of the carbon cycling of plant material. The EPA has therefore exempted biogenic CO_2 from air permits until July 20, 2014, while it conducts its analysis. While some states have not incorporated the temporary deferral of biogenic CO_2 from permitting, the MPCA has opted to make this temporary exemption as part of this rulemaking. Other GHGs with biogenic origins (methane or nitrous oxide) are not eligible for this exclusion. In addition, this exclusion does not affect any other EPA programs that pertain to stationary sources, such as New Source Performance Standards (NSPS) or the GHG Reporting Program.

The temporary exclusion of biogenic CO_2 affects only certain types of sources; including fermentation (breweries, bakeries, ethanol) and biomass combustion (approximately 41 permitted biomass facilities holding individual permits). A number of these sources are already subject to permitting as major sources. The inclusion of GHGs, with or without biogenic CO_2, would not change their permit status and would not reduce their GHG emissions.

21. Amelia Kroeger, Maple Plain, MN. Received August 10, 2012

Comment 21-1. The proposed rules have such a high threshold - 100 thousand tons/year CO_2-e - that they will be ineffective in seriously curtailing GHG emissions in Minnesota. The MPCA has the authority to adopt rules setting a higher standard than EPA has required. It strongly appears that authority should be exercised for a much lower threshold for CO_2-e emissions.

Response 21-1. See Responses 2-2 and 2-3. Lowering the threshold as described in the comment would result solely in the MPCA issuing many more permits to entities that emit GHGs at much lower

thresholds (even some homes, schools, and small businesses). However, that change alone would not result in curtailing GHG emissions which is outside the scope of the rules as proposed .

22. Kristen Eide-Tollefson, Frontenac, MN. Received August 10, 2012

Comment 22-1. Thresholds are insufficient to challenge expanding GHG emissions in Minnesota. The MPCA has the authority to adopt rules setting a higher standard than EPA has required, and this is clearly a matter in which that authority should be exercised.

Response 22-1. See Responses 2-2 and 2-3.

Comment 22-2. Additional information should be gathered and public hearing held to evaluate and address feasibility of adopting a lower threshold.

Response 22-1. See Response 2-1 and 2-3.

Comment 22-3. The current plan to follow EPA's deferral, rather than to actively prepare Minnesota's biomass industry for these changes may not benefit the state's industry in the long run. Particularly given the increasing air alert pattern for Minnesota -- responsible, proactive investigation and active support of reduced GHG emissions, through incorporation into the rule -- will benefit all parties in the long term.

Response 22-3. See Response 19-4.

25. K. Brian Nowak. Maple Plain, MN. Received August 10, 2012

Comment 25-1. The proposed rules have such a high threshold - 100 thousand tons/year CO_2-e - that they will be seriously ineffective in curtailing GHG emissions in Minnesota. The MPCA has the authority to adopt rules setting a higher standard than EPA has required. It strongly appears that authority should be exercised for a much lower threshold for CO_2-e emissions.

Response 25-1. See Responses 2-2 and 2-3.

26-27. Carol A. Overland, Legalectric - Overland Law Office, Red Wing, MN. Received August 10, 2012 (2 comments)

Comment 26-1. The timing of this meeting is problematic, as few people can attend a meeting at 2 p.m. in the afternoon. The meeting should be scheduled for the evening, or another session should be held in the evening. If it is held at 2 p.m., the only ones who likely could attend are paid staff members of organizations and people who are retired. I request a hearing at a time that would allow for working people to attend.

Response 26-1. The Administrative Law Judge (ALJ) advised the MPCA to proceed with the hearing as described in the legal notice. A person need not attend the hearing to make their concerns known. The ALJ allowed 20 days after the hearing to submit written input. See also Response 2-1.

Comment 26-2. The public realm has sufficient information to support a more stringent limitation on greenhouse gas emissions, and it is the MPCA's job to "control" pollution and it is the Agency that has

the expertise to determine what specific limit is appropriate. The public, at the hearing, will have much more information and specific recommendations for the MPCA. Those knowledgeable, concerned, and expert in this area must be allowed to speak and present their testimony at a public hearing.

Response 26-2. See Responses 2-2, 2-3and 26-1.

29. Elanne Palcich, Chisholm, MN. Received August 10, 2012

Comment 29-1. I request an August 30 hearing on such proposed amendment /rules based upon the following:
1) July of 2012 has been the hottest July on record.
2) Drought conditions are affecting 24% of the corn/soybean belt.
3) Low water conditions are affecting parts of California's valley known for growing food crops.
4) Wild fires in Colorado and other states are costing taxpayers millions of dollars in fire-fighting, and loss of homes. No one mentions the impacts to the ecosystems.
5) In 2011, U.S. Forest Service policies contributed to the Pagami Creek conflagration which destroyed 100,000 acres of the BWCA. The Forest Service was relying on computer data and weather reports as their scientific basis, rather than observing conditions on the ground. The Forest Service has now revised its fire policy.
6) Despite evidence in front of our faces that climate change includes the extremes of heat and cold/ drought and flooding, scientists and agencies claim they do not have enough "science" to really understand what is happening.
7) We cannot wait for such science when there is already enough information to indicate that CO_2, caused by industrialization, is contributing to global warming.
8) Our agencies have a responsibility for the health and welfare of the public.

Response 29-1. See Responses 2-1, 2-2, 2-3, and 3-1.

Comment 29-2. I believe that the proposed temporary rules do not go far enough in reducing carbon emissions and/or preventing CO_2 emissions from rising above current levels. One cannot eliminate most small CO_2 emitters without considering the cumulative effects.

Response 29-2. See Response 2-2 and 2-3.

Comment 29-3. I believe that biomass is not a worthy replacement of current CO_2 emitters. This is where we actually need science ahead of permitting facilities that will contribute to CO_2 emissions. Once an industry gets permitted, it's almost impossible to shut it down, because now you have people dependent on those jobs.

Response 29-3. See Response 19-4.

Comment 29-4. Of utmost importance, MPCA rules must take into account proposed sulfide mining, which is set to destroy carbon sequestering wetlands throughout northeast Minnesota. A moratorium on sulfide mining due to its intense demand for fuel and electricity, along with the destruction of wetlands, would immediately help prevent increasing emissions of CO_2.

Response 29-4. The comment is noted. The scope of the proposed rules does not include sector-specific performance standards; see Responses 2-2 and 2-3.

Comment 29-5. We cannot continue on our current path. Current MPCA policies will result in a much diminished environment along with a food crisis.

Response 29-5. The comment is noted. Please see response 2-3 regarding scope of proposed rules.

31. Sheldon Gitis, St. Paul, MN. Received August 10, 2012

Comment 31-1. I request that the scheduled August 30th hearing be held on the proposed Permanent Green House Gas (GHG) Rules.

Response 31-1. See Response 2-1.

32. Lori Andresen, Duluth, MN. Received August 10, 2012

Comment 32-1. I am requesting that the scheduled August 30th hearing be held on the proposed Permanent Green House Gas (GHG) Rules. I oppose the entire set of rules as proposed and as adopted temporarily in 2011.

Response 32-1. See Responses 2-1 and 2-2.

Comment 32-2. The proposed amendment to set the threshold for requiring an Environmental Assessment Worksheet (EAW) at 100,000 metric tons of carbon dioxide is too high to capture the majority of new polluters in the state. While the proposed amendment may be in accord with the Federal rule, changing the threshold to 100,000 tons a year will not be adequate to reduce green house gas emissions in Minnesota. The MPCA has the authority and obligation to adopt rules setting a higher standard than Federal rules in order to protect Minnesota - and it's people. A much lower threshold for CO_2 emissions should be incorporated. As a resident of Northeastern Minnesota, in less than a year my family has been in the evacuation zone of one of the largest wildfires in our history (a fire preceded by record droughts) and in the path of a record flood - see references below.

Response 32-2. See Response 2-2 and 2-3.

Comment 32-3. The Minnesota Department of Natural Resources (MDNR) is planning on opening up a huge sulfide mining district in the Arrowhead of Minnesota, destroying thousands upon thousands of acres of CO_2 sequestering forests, wetlands and bogs.

Response 32-3. See Responses 2-3 and 29-4.

Comment 32-4. Climate change is here, the time for our government and its agencies to respond to this threat is *now*.

Response 32-4. See Responses 2-2, 2-3, 3-1 and 3-2.

33. Carla Arneson, Ely, MN. Received August 10, 2012

Comment 33-1. It is also imperative to consider the effect that sulfide mining projects proposed for northern Minnesota would have when they destroy the wetlands and forests of our state. It is

imperative to consider cumulative effects of the failure to meet air emission standards by the mining industry currently in Minnesota when coupled with the additional emissions of proposed sulfide mining projects, including additional coal fired power plant emissions used for their operations.

Response 33-1. See Responses to comment letters number 2 and 19 and Response 29-4.

35. Rick Rosvold Xcel Energy, Minneapolis, MN Received August 10, 2012

Comment 35-1. Minnesota Rules 7007.1450, subpart 2. Minor amendment applicability additional language does not provide for a long enough compliance period. The proposed language in question in this section reads, "If a regulatory change results in existing insignificant activities no longer qualifying as such, the owners and operators must submit an application within 30 days of the regulation's effective date to incorporate those emission units or activities into the facility's permit."

MPCA's Statement of Need and Reasonableness indicates that without a due date for the application, the implication is that an amendment is due on the effective date of the regulation that disqualifies the activity" from the insignificant activity category. Xcel Energy supports the need for an adequate time period for the affected source to submit a permit application after existing insignificant activities no longer qualify" under that classification, but believes that the proposed 30 day period is too short. Xcel Energy proposes that this time period be extended from MPCA's proposed time of 30 days to a more fitting time of either 180 or 365 days. Minnesota Rules 7007.0400, subparts 3- 5 describe several situations when a source is required to submit an application, and allows between 180 days or 365 days for the application to be prepared. The same timeline is appropriate for submitting an application to move an activity out of the insignificant activity category.

In order to comply with the requirement to submit a permit amendment within a short, 30 day application submittal timeline, the facility must identify that a regulatory change exists, determine the proper course of action to respond to the changing regulation, which often requires retaining a consultant, and actually prepare the application. The proposed timeline is overly restrictive, especially where a permittee must obtain help from a consultant. Requiring the permittee to apply within 30 days of the regulation's effective date will not improve the permitting process. The legislature and the MPCA have been working hard to shorten the time needed to issue permits in Minnesota. In spite of these efforts, the MPCA maintains a large backlog of permit reissuance applications. MPCA currently does not have adequate permitting staff to address the existing work load. A new 30-day application requirement would only add workload for the MPCA with little expectation that the permittee will receive a permit amendment any sooner than the current process. To this end, we do not see what is gained by including such a short application timeframe.

Response 35-1. The MPCA agrees that 30 days is a relatively brief amount of time for a compliance due date. The MPCA notes that it did not receive concerns about complying with this part under the temporary GHG rules which were promulgated on January 24, 2011. However, the commentor is correct that this short timeframe has the potential to cause compliance difficulties in the future. Therefore, the MPCA proposes to revise this time frame to allow for 120 days. That is consistent with federal requirements for notifications for a similar scenario (see 40 CFR 63.9(b)(2)).

Comment 35-2. The MPCA's Proposed New References to Owners and Operators Should be Deleted. Xcel Energy notes that MPCA is proposing numerous changes to substitute or add the phrase "owner and operator" in the rule (emphasis added). Xcel Energy would like to clarify how this change would be

implemented. Sherburne County Generating Plant Unit 3 is a facility jointly owned by XceI Energy and the Southern Minnesota Municipal Power Agency. Xcel Energy" operates the unit under the terms of an Owner and Operator agreement that specifies that permitting is part of Xcel Energy's authority and responsibility. Under MPCA's existing rules, most obligations are characterized as those of the "owner or operator," "applicant" or the "permittee." The exception is the requirement that a permit application identify the owners and operators of a facility in the content of a permit application. *See Minn.* Rules 7007.0500, subp. 2. This makes sense in the context of the required application content, because MPCA can review the information to see if any additional parties should be named in the permit (thereby becoming permittees) due to the particular circumstances involved with a handful of individual sources.

It is not clear what the MPCA's proposed multiple substitutions or insertions of the term "owner and operators" would require. The general reference to the obligations of the "owner or operator" is a term whose use is longstanding, and is pervasively used in air quality regulation, including the permit program. See, for example, Clean Air Act sec. 502~o)(3)(A) (relating to air permit fees); 40 CFR sees. 70.5(a)(1) and 70.9(a) (relating to air permit fees and the obligation to apply for a permit); 40 CFR sec. 71.5(a) (relating to the obligation to apply for a permit if the permit program in the state is administered by EPA). Minnesota's air permit rules also refer to the "owner or operator" in relation to the obligation to apply for a permit. *See* Minn. Rules 7007.0150, subp. 4, 7007.0400, subps. 3-5, and 7007.0450, subp. 3 (relating to Part 70 and state permits in general); as well as 7007.1105 (EMS permits); 7007.1110 (registration permits), and 7007.1140 (capped permits). It is not clear what obligations the MPCA's proposed change from the established language would mean for a co-owner who is not the operator of a facility, or what additional work the operator of a facility" must do when administering its obligations under the permit in relation to a co-owner.

Xcel Energy appreciates MPCA's desire to be sure that the rules clearly state that the owner or the operator must apply for a permit for a source subject to permitting requirements, but suggests that the pervasive change proposed by MPCA could create multiple additional ambiguities in how the rules will be applied in an effort to clarify this one point. An alternative approach that addresses MPCA's stated concern without such a comprehensive change to the rules would be desirable. For example, MPCA could make a clear statement at the start of Chapter 7007 that for any source with air emissions that would trigger the requirement for a permit, the "owner or operator" of that source must apply" for a permit. This could be placed within the role part that states the overall permit requirement imposed by Chapter 7007, such as part 7007.0150, and would address the issue identified by MPCA in proposing this change.

Response 35-2. The proposed rules clarify that owners and operators of stationary sources are subject to permitting requirements. The proposal does not alter the effect of existing rules, but only clarifies applicability. As such, the rules affect owners and operators of currently permitted facilities, and those owners and operators that intend to apply for air emission permits in the future. Most owners and operators are already aware that they are subject to air emissions permitting rules. There may only be a few owners or operators who mistakenly believed that the permitting rules applied to either owners or operators, but not both.

The owner and operator obligation already existed. Minn. R. ch. 7007.0500, subp. 2. specifies that "*Applicants shall submit the following information as required by the standard application form: A. Information identifying the stationary source* ***and*** *its owners and operators"* (emphasis added).The clarification does not impose a new or more intrusive obligation. The confusion arose because other subparts in Minn. R. ch. 7007 that discussed situations when a permit application should be submitted

said "*owners or operators*." Additionally, the existing federal permitting requirements include owners and operators, so the proposed rule is no more stringent than federal rules or existing Minnesota Rules.

The alternative to clarifying that owners and operators are subject to the permitting rules is to retain the existing rule language. The existing rules resulted in instances of confusion for permittees which will be resolved with the proposed rules. If the MPCA does not clarify that owners *and* operators are subject to the air emissions permitting rules, some owners and operators may continue to be confused on the point. This confusion can result in enforcement action against owners or operators who fail to join in the permit application process as required by Minn. R. ch. 7007.0500, subp. 2.

The MPCA notes that the proposed changes are only to subparts of the rules which refer to applying for a permit. Rule subparts pertaining to compliance remain unchanged. Either the owner or the operator can address compliance requirements such as recordkeeping, testing or reporting.

The MPCA worked with the Revisor of Statutes Office on this rule language. The MPCA and Revisor evaluated the option of only changing the definition of "owner or operator" in Minn. R. 7005.0100 subp 30. The decision was to revise the specific subparts for which the MPCA had identified a potential concern about permit applications.

36. Mike Robertson, Minnesota Chamber of Commerce, St. Paul, MN. Received August 10, 2012

Comment 36-1. Proposed Rules 7007.1450, subpart 2. Minor amendment applicability language should be changed to allow longer compliance period. The proposed language reads, "If a regulatory change results in existing insignificant activities no longer qualifying as such, the owners and operators must submit an application within 30 days of the regulation's effective date to incorporate those emission units or activities into the facility's permit."

The Chamber agrees with the MPCA that a due date is necessary to avoid the implication that the amendment is due on the effective date of the regulation that disqualifies the activity as an insignificant activity. However, the 30 day time period is too short. To comply with the submission requirement, a facility must identify the regulatory change and determine the appropriate action and information required for a permit application. These steps may require the retention of an outside consultant. The proposed 30 day timeline is unreasonable. … We note that Minnesota Rules 7007.0400, subparts 3-5 describe situations where sources are allowed 180 days or 365 days for application submission. The Chamber believes that the same timeline is appropriate for an application to remove an activity from the insignificant activity category.

Response 36-1. See Response 35-1.

Comment 36-2. New references to "owners and operators" in the proposed rule should be deleted. The comments submitted by Xcel Energy describe situations where is it inappropriate that a required action be taken by both the owner and operator. The MPCA's insertion of "owner and operator" will create confusion and uncertainty. As noted in Xcel's comments, federal and state air rules are replete with the term "owner or operator" in relation to permit obligations. The multiple insertion of a different term has the potential to create unnecessary difficulties of interpretation.

The Chamber endorses Xcel's suggestion that the MPCA can achieve its objective for clarity by adding a statement at the beginning of Chapter 7007 saying that for any sources with air emissions that trigger the requirement for a permit, the "owner or operator" of the source must apply for a permit.

Response 36-2. See Response 35-2.

37. Tara Chadwick, St. Paul. MN. Received August 10, 2012

Comment 37-1. Please accept this email as a formal request in writing for a public hearing regarding the adoption of a permanent rule in regards to the threshold "green house gas" emissions limits that contribute to climate change. While the differences between the final rules adopted by the EPA and MPCA may end up being very similar, I feel that it is an important opportunity to both educate and be educated by the public at large who is available to attend such a hearing in Minnesota.

Response 37-1. See Responses 2-1 and 2-2.

38. Suzanne Rohlfing, Rochester, MN. Received August 10, 2012

Comment 38-1. It is with urgent concern that I request the scheduled Hearing on the proposed Permanent Green House Gas Rules be held on August 30th. After this summer, and thousands of record breaking temperatures, it would seem apparent that erring on the side of more conservative CO_2-e emission tolerance is needed. I therefore oppose the adopted temporary 2011 rules, and ask for a more aggressive agenda with a lower threshold for CO_2 emissions than that required by the EPA.

Response 38-1. See Responses 2-1 and 2-2.

41. Sen. John Marty, Roseville, MN. Received August 10, 2012

Comment 41-1. I request that the MPCA hold a hearing on the proposed Permanent Greenhouse Gas Rules on August 30.

Response 41-1. See Response 2-1.

Comment 41-2. The federal thresholds are inadequate, given the urgency of the climate change situation, and Minnesota can do better than simply adopt the federal standards. I strongly encourage the MPCA to hold the hearing and then adopt a more meaningful rule. The minimal efforts to address greenhouse gas emissions being put forth by our generation will be looked at shamefully by future generations that are forced to live with the consequences of our inaction.

Response 41-2. See Responses 2-2 and 2-3.

42. Kay Nygaard Graham, Minneapolis, MN. Received August 10, 2012

Comment 42-1. I request that the scheduled August 30th hearing be held on the proposed Permanent Green House Gas (GHG) Rules.

Response 42-1. See Response 2-1.

Comment 42-2. To clarify: The Temporary Rules that were adopted in 2011 must not be made permanent without more public scrutiny and input. The Federal guidelines are totally inappropriate and unacceptable because they will not accomplish the task for which you say they are intended. Why, then, should the MPCA agree to implement these rules on a permanent basis? The MPCA has the authority to adopt rules setting a higher standard than EPA has required. It is clear to me that the MPCA should do its due-diligence, to exercise its authority and incorporate the more appropriate lower threshold for CO_2-e emissions.

Response 42-2. See Response 2-2 and 2-3.

Comment 42-3. Additionally, It is TOTALLY irresponsible for the MPCA to promote "biomass-fired or biogenic processes" while seeking to avoid considering the climate-forcing emissions of these processes. Emissions of this sort, and facilities responsible for such emissions, should be fully incorporated, not exempted, from the Minnesota rule.

Response 42-3. See Response 19-4.

43. Christie Manning, St. Paul, MN. Received August 9, 2012

Comment 43-1. I am writing to join other voices from around the state to request a public hearing on the proposed Permanent Green House Gas (GHG) Rules.

Response 43-1. See Response 2-1.

Comment 43-2. I believe proposed threshold for CO_2e (carbon dioxide equivalent) of 100,000 tons (two hundred million pounds) per year is far too large. It is well past time for us to act decisively to cut our GHG emissions. This is an opportunity for Minnesota to step out ahead, showing ethical, environmental, and forward-thinking economic leadership.

Response 43-2. See Responses 2-2 and 2-3.